

### REMARKS

This responds to the Office Action mailed on September 6, 2006. Claims 62, 65, 67 and 76 are amended, no claims are canceled, and no claims are added; as a result, claims 40, 41 and 45-76 are now pending in this application.

#### *In the Specification*

The specification has been amended to update the priority information. No new matter has been added.

#### *Information Disclosure Statement*

Applicant submitted an Information Disclosure Statement and a 1449 Form on June 7, 2001 and Supplemental Information Disclosure Statements and 1449 Forms on November 30, 2001, March 22, 2002, May 7, 2002, July 31, 2003, January 25, 2003, April 26, 2004 and July 5, 2005. Applicant respectfully requests that initialed copies of the 1449 Forms be returned to Applicant's Representatives to indicate that the cited references have been considered by the Examiner.

#### *§102 Rejection of the Claims*

##### *Claims 62, 65, 67 and 76*

Claims 62, 65, 67 and 76 were rejected under 35 U.S.C. § 102(e) for anticipation by Burns, Jr. et al. (U.S. 5,990,509). Applicant has amended claims 62, 65, 67 and 76 to further clarify the recited subject matter.

With respect to claims 62, 65, 67 and 76, Applicant respectfully submits the first and second floating gate regions are distinct floating gates and the amendments submitted herewith clarify this distinction and are supported in the specification, at least, at page 11, lines 12-22, as well as in FIGS. 4 and 20. Conversely, applicant submits the reference shows a continuous gate region 275, 265 wrapping around a pillar 230. (Burns Jr. et al., FIGS. 10, 11, 15 and 25; col. 9, lines 1-8, col. 10 line 63 – col. 11, line 6; col. 14, lines 1-12.)

With respect to claims 62, 65, 67 and 76, Applicant is unable to find in the cited portions of Burns, a method comprising, among other things, forming first floating gates along sidewall

regions of the first troughs and separated from the sidewall regions by a first gate dielectric layer, and forming second floating gates along sidewall regions of the second troughs and separated from the sidewall regions by a second gate dielectric layer, as recited in the claims. Applicant respectfully requests withdrawal of the rejection and reconsideration and allowance of claims.

*Request for Consideration of Withdrawn Claims*

Applicant respectfully requests that the Examiner voluntarily reconsider the decision to divide the application into species I (claims 63-64) and II (claims 62, 65-69, and 76), and further into sub-species I-IV (claims 65, 66, 68, 69, respectively), as indicated in the Restriction Requirement. It is Applicant's belief that examination of all these claims may not present an undue burden on the Examiner to search and examine a large number of species. Accordingly, Applicant respectfully requests reconsideration of the Restriction Requirement, and examination of 62-69 and 76 in conjunction with the present application.

If the Examiner agrees to voluntarily reconsider the restriction, the Examiner is requested to contact Applicant's representative to bring the non-elected claims into conformance with the elected claims.

### CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6960 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

WENDELL P. NOBLE JR. ET AL.

By their Representatives,

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Date 12-6-06

By Marvin L. Beekman  
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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 6 day of December 2006.

Kate Gannon  
Name

Kate G  
Signature